

### **REMARKS**

This amendment under Rule 312 is being submitted to correct some typographical errors in the claims that the Examiner made by Examiner's Amendment. In addition, the reference to the word "common" before the API in claims 11, 20 and 26 has been removed, as it was not discussed when authorization for the Examiner's Amendment was made, and the Examiner subsequently consented to its removal. With respect to claims 22 and 25, Applicants noted that the Examiner's Amendment removed the word "it" but did not note its deletion. However, the basis for the amended claims herein is the claims as rewritten by the Examiner in the Examiner's Amendment. Applicants have made every effort to rewrite the claims in the manner allowed by the Examiner (subject to the exceptions discussed above), but invite the Examiner to carefully review the claims to ensure that they are in the form that the Examiner considered allowable.

The paper including the Examiner's Amendment indicated that a substitute declaration or oath would be required to correct a deficiency relating to the priority claim to application no. 09/557,498. In this respect, in the declaration filed with the application, priority to the '498 application was listed as being made under 35 U.S.C. §119(e). In view of the fact that priority could only be claimed to the '498 application under 35 U.S.C. §120, the Examiner indicated that the priority claim in the declaration was not effective. Between September 2 and September 9, 2005, the undersigned had a few phone conversations with the Examiner and her supervisor (the substance of which are summarized herein), wherein the undersigned suggested that a new declaration should not be required. Specifically, the undersigned pointed out that a priority claim is not required to be made in the declaration, and that priority to the '498 application was properly claimed in the section of the specification entitled "Related Application", wherein the present application is referred to as a continuation-in-part of the '498 application. Ultimately, the Examiner agreed that a new declaration/oath was not required and that a statement herein that the reference to the priority claim to the '498 application as being under §119 in the declaration is a mistake, and that priority to the '498 application is properly made in the specification under §120 would suffice. In view of the fact that such a statement is made herein, it is believed that no new oath or declaration is required.

Serial No.: 09/840,368  
Conf. No.: 3824

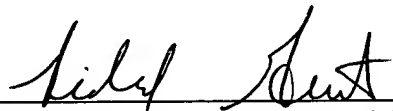
- 7 -

Art Unit: 2155

If there are any questions concerning the foregoing, the Examiner is invited to contact the undersigned at the number listed below.

Respectfully submitted,  
*Timothy M. Moore et al., Applicant(s)*

By:

  
Richard F. Giunta, Reg. No. 36,149  
Wolf, Greenfield & Sacks, P.C.  
600 Atlantic Avenue  
Boston, Massachusetts 02210-2206  
Telephone: (617) 646-8000

Docket No.: M1103.70080US00  
Date: 09/ 15 /05  
x11/28/05x